

Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL TODD, et al.,)	
)	
Plaintiffs,)	No. C09-1232JCC
)	
vs.)	ANSWER OF DEFENDANT CITY OF
)	SEATTLE TO FIRST AMENDED CLASS
THE CITY OF ABERDEEN, et al.,)	ACTION COMPLAINT
)	
Defendants.)	
)	

Defendant City of Seattle ("Seattle") answers the First Amended Class Action for Conversion, Unjust Enrichment, Malicious Prosecution/Abuse of Process, Violation of Consumer Protection Act and Other Statutory Violations, Restitution, and Injunctive and Declaratory Relief ("Complaint"), filed in King County Superior Court on July 29, 2009, and removed to this Court on August 31, 2009. Unless specifically admitted, Seattle denies all allegations in the Complaint.

ANSWER

1.1 The allegations contained in paragraph 1.1 are not factual averments to which a response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific

1 allegations where they are made. To the extent a response is required, Seattle denies all allegations
2 in paragraph 1.1.

3 1.2 The allegations contained in paragraph 1.2 are not factual averments to which a
4 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
5 allegations where they are made. To the extent a response is required, Seattle denies all allegations
6 in paragraph 1.2.

7 1.3 The allegations contained in paragraph 1.3 are not factual averments to which a
8 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
9 allegations where they are made. To the extent a response is required, Seattle denies all allegations
10 in paragraph 1.3.

11 1.4 The allegations contained in paragraph 1.4 are not factual averments to which a
12 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
13 allegations where they are made. To the extent a response is required, Seattle denies all allegations
14 in paragraph 1.4.

15 1.5 The allegations contained in paragraph 1.5 are not factual averments to which a
16 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
17 allegations where they are made. To the extent a response is required, Seattle denies all allegations
18 in paragraph 1.5.

19 2.1 Seattle lacks knowledge or information sufficient to form a belief as to the truth of
20 the allegations in paragraph 2.1, and therefore denies them.

21 2.2 Seattle admits that it has issued citations for traffic infractions detected through
22 the use of automated traffic safety cameras to individuals named Mark Contratto and Aneva
23

1 Freeman. Seattle lacks knowledge or information sufficient to form a belief as to the truth of the
2 remaining allegations in paragraph 2.2, and therefore denies them.

3 2.3 Seattle lacks knowledge or information sufficient to form a belief as to the truth of
4 the allegations in paragraph 2.3, and therefore denies them.

5 2.4 Seattle lacks knowledge or information sufficient to form a belief as to the truth of
6 the allegations in paragraph 2.4, and therefore denies them.

7 2.5 Seattle lacks knowledge or information sufficient to form a belief as to the truth of
8 the allegations in paragraph 2.5, and therefore denies them.

9 3.1 Seattle admits that it issues citations for traffic infractions detected through the
10 use of automated traffic safety cameras. Seattle lacks knowledge or information concerning the
11 practices of other jurisdictions with respect to the use of automated traffic safety cameras. The
12 remaining allegations in paragraph 3.1 are not factual averments to which a response is required,
13 but instead consist of legal conclusions and arguments. To the extent a response is required,
14 Seattle alleges that RCW 46.63.170 and its legislative history speak for themselves, and denies
15 any characterization thereof by plaintiffs.

16 3.2 The allegations in paragraph 3.2 are not factual averments to which a response is
17 required, but instead consist of legal conclusions and arguments. To the extent a response is
18 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
19 by plaintiffs.

20 3.3 The allegations in paragraph 3.3 are not factual averments to which a response is
21 required, but instead consist of legal conclusions and arguments. To the extent a response is
22 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
23 by plaintiffs.

1 3.4 The allegations in paragraph 3.4 are not factual averments to which a response is
2 required, but instead consist of legal conclusions and arguments. To the extent a response is
3 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
4 by plaintiffs.

5 3.5 Seattle admits that it entered into a contract for a traffic safety camera system with
6 American Traffic Solutions (“ATS”). Seattle lacks knowledge or information sufficient to form a
7 belief as to the truth of the remaining allegations in paragraph 3.5, and therefore denies them.

8 3.6 Seattle lacks knowledge or information concerning the practices of other
9 jurisdictions with respect to the use of automated traffic safety cameras, and therefore denies all
10 such allegations in paragraph 3.6. To the extent the allegations in paragraph 3.6 allege conduct
11 on the part of Seattle, Seattle denies them.

12 3.7 Seattle lacks knowledge or information concerning the practices of other
13 jurisdictions with respect to the use of automated traffic safety cameras, and therefore denies all
14 such allegations in paragraph 3.7. To the extent the allegations in paragraph 3.7 allege conduct
15 on the part of Seattle, Seattle denies them. The portions of paragraph 3.7 that purport to
16 summarize State law are not factual averments to which a response is required, but instead
17 consist of legal conclusions and arguments. To the extent a response to such portions of
18 paragraph 3.7 is required, Seattle alleges that State law speaks for itself, and denies any
19 characterization thereof by plaintiffs.

20 3.8 Seattle lacks knowledge or information concerning the practices of other
21 jurisdictions with respect to the use of automated traffic safety cameras, and therefore denies all
22 such allegations in paragraph 3.8.
23

1 3.9 Seattle lacks knowledge or information concerning the practices of other
2 jurisdictions with respect to the use of automated traffic safety cameras, and therefore denies all
3 such allegations in paragraph 3.9.

4 3.10 The allegations in paragraph 3.10 are not factual averments to which a response is
5 required, but instead consist of legal conclusions and arguments. To the extent a response is
6 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
7 by plaintiffs.

8 3.11 The allegations in paragraph 3.11 are not factual averments to which a response is
9 required, but instead consist of legal conclusions and arguments. To the extent a response is
10 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
11 by plaintiffs.

12 3.12 The allegations in paragraph 3.12 are not factual averments to which a response is
13 required. To the extent a response is required, Seattle alleges that RCW 46.63.170(2) speaks for
14 itself.

15 3.13 To the extent the allegations in paragraph 3.13 allege conduct on the part of
16 Seattle, Seattle denies them. Seattle lacks knowledge or information concerning the practices of
17 other jurisdictions with respect to the use of automated traffic safety cameras, and therefore
18 denies all such allegations in paragraph 3.13.

19 3.14 To the extent the allegations in paragraph 3.14 allege conduct on the part of
20 Seattle, Seattle alleges that the provisions of the Seattle Municipal Code and of the laws of the
21 State of Washington concerning penalties for traffic infractions detected through the use of
22 automated traffic safety cameras speak for themselves. Seattle lacks knowledge or information
23

1 concerning the practices of other jurisdictions with respect to the use of automated traffic safety
2 cameras, and therefore denies all such allegations in paragraph 3.14.

3 3.15 The allegations in paragraph 3.15 concerning State law, including IRLJ 2.1 and
4 RCW 46.63.060(2), are not factual averments to which a response is required, but instead consist
5 of legal conclusions and arguments. To the extent a response is required, Seattle alleges that
6 State law speaks for itself, and denies any characterization thereof by plaintiffs. Seattle lacks
7 knowledge or information concerning the practices of other jurisdictions with respect to the use
8 of automated traffic safety cameras, and therefore denies all such allegations in paragraph 3.15.
9 To the extent the allegations in paragraph 3.15 allege conduct on the part of Seattle, Seattle
10 denies them.

11 3.16 Seattle alleges that its contract with ATS speaks for itself. Seattle lacks
12 knowledge or information concerning the terms of contracts between other jurisdictions and the
13 defendant camera companies, and therefore denies all such allegations in paragraph 3.16.

14 3.17 Seattle lacks knowledge or information concerning the terms of contracts between
15 other jurisdictions and the defendant camera companies, and therefore denies all such allegations
16 in paragraph 3.17.

17 3.18 Seattle alleges that its contract with ATS speaks for itself, and denies this
18 allegation as to Seattle. Seattle lacks knowledge or information concerning the practices of other
19 jurisdictions with respect to the use of automated traffic safety cameras, and lacks knowledge or
20 information concerning the terms of contracts between other jurisdictions and the defendant
21 camera companies, and therefore denies all such allegations in paragraph 3.18.

22 3.19 Seattle alleges that its contract with ATS speaks for itself, and denies this
23 allegation as to Seattle. Seattle lacks knowledge or information concerning the practices of other

1 jurisdictions with respect to the use of automated traffic safety cameras, and lacks knowledge or
2 information concerning the terms of contracts between other jurisdictions and the defendant
3 camera companies, and therefore denies all such allegations in paragraph 3.19.

4 3.20 Seattle alleges that its contract with ATS speaks for itself, and denies this
5 allegation as to Seattle. Seattle lacks knowledge or information concerning the practices of other
6 jurisdictions with respect to the use of automated traffic safety cameras, and lacks knowledge or
7 information concerning the terms of contracts between other jurisdictions and the defendant
8 camera companies, and therefore denies all such allegations in paragraph 3.20.

9 3.21 Seattle denies this allegation as to Seattle. Seattle lacks knowledge or information
10 concerning the practices of other jurisdictions with respect to the use of automated traffic safety
11 cameras, and therefore denies all such allegations in paragraph 3.21.

12 3.22 With respect to the allegations in the first two sentences of paragraph 3.22, Seattle
13 denies these allegations as to Seattle. Seattle lacks knowledge or information concerning the
14 practices of other jurisdictions with respect to the use of automated traffic safety cameras, and
15 therefore denies all such allegations in paragraph 3.22. With respect to the allegations in the
16 final sentence of paragraph 3.22, Seattle alleges that the provisions of the Seattle Municipal Code
17 and of the laws of the State of Washington concerning penalties for traffic infractions detected
18 through the use of automated traffic safety cameras speak for themselves.

19 3.23 Seattle admits that it has issued citations for traffic infractions detected through
20 the use of automated traffic safety cameras at the intersection identified in paragraph 3.23.
21 Seattle denies the remaining allegations in paragraph 3.23.

22 3.24 Seattle lacks knowledge or information concerning the practices of other
23 jurisdictions or vendors other than ATS with respect to the use of automated traffic safety

1 cameras, and therefore denies all such allegations in paragraph 3.24. Seattle admits that certain
2 information, including data and visual images, are received from the vendor, and that this
3 information is made available to the person receiving the citation both through the notice of
4 infraction and through the internet.

5 3.25 The allegations in paragraph 3.25 are vague and confusing. Seattle denies the
6 allegations in paragraph 3.25.

7 3.26 The allegations in paragraph 3.26 are not factual averments to which a response is
8 required, but instead consist of legal conclusions and arguments. To the extent a response is
9 required, Seattle alleges that State law speaks for itself, and denies any characterization thereof
10 by plaintiffs.

11 3.27 Seattle denies the allegations in paragraph 3.27.

12 3.28 The allegations in paragraph 3.28 are not factual averments to which a response is
13 required, but instead consist of legal conclusions and arguments. To the extent a response is
14 required, Seattle alleges that the Washington Constitution and United States Constitution speak
15 for themselves, and denies any characterization thereof by plaintiffs.

16 3.29 Seattle denies the allegations in paragraph 3.29.

17 4.1 Seattle denies that either King County Superior Court or this Court has subject
18 matter jurisdiction over this lawsuit.

19 4.2 Seattle denies the allegations in paragraph 4.2.

20 4.3 Paragraph 4.3 does not set forth allegations requiring an answer from Seattle, and
21 therefore does not require a response from Seattle. To the extent a response is required, Seattle
22 denies the allegations in paragraph 4.3.
23

1 4.4 Seattle admits that the venue in which plaintiffs originally filed this action was a
2 proper venue for some of the allegations in the Complaint. Seattle denies all remaining allegations
3 in paragraph 4.4.

4 5.1 The allegations contained in paragraph 5.1 are not factual averments to which a
5 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
6 allegations where they are made. To the extent a response is required, Seattle denies all allegations
7 in paragraph 5.1.

8 5.2 The allegations contained in paragraph 5.2 are not factual averments to which a
9 response is required, but rather characterizations of plaintiffs' lawsuit. Seattle will address specific
10 allegations where they are made. To the extent a response is required, Seattle denies all allegations
11 in paragraph 5.2.

12 5.3 Seattle denies the allegations in paragraph 5.3.

13 5.4 Seattle denies the allegations in paragraph 5.4, and all of its subparagraphs.

14 5.5 Seattle denies the allegations in paragraph 5.5.

15 5.6 Seattle denies the allegations in paragraph 5.6.

16 5.7 Seattle denies the allegations in paragraph 5.7.

17 5.8 Seattle denies the allegations in paragraph 5.8.

18 5.9 Seattle denies the allegations in paragraph 5.9.

19 5.10 Seattle denies the allegations in paragraph 5.10.

20 5.11 Seattle denies the allegations in paragraph 5.11.

21 5.12 Seattle denies the allegations in paragraph 5.12.

22 6.1 Seattle incorporates by reference, as if fully restated, the admissions, denials and
23 responses in paragraphs 1.1 through 5.12 above.

1 6.2 Seattle denies the allegations in paragraph 6.2.

2 6.3 Seattle denies the allegations in paragraph 6.3.

3 7.1 Seattle incorporates by reference, as if fully restated, the admissions, denials and
4 responses in paragraphs 1.1 through 5.12 above.

5 7.2 Paragraph 7.2 sets forth allegations only against other defendants, and therefore does
6 not require a response from Seattle. To the extent a response is required, Seattle denies the
7 allegations in paragraph 7.2.

8 8.1 Seattle incorporates by reference, as if fully restated, the admissions, denials and
9 responses in paragraphs 1.1 through 5.12 above.

10 8.2 Seattle denies the allegations in paragraph 8.2.

11 9.1 Seattle incorporates by reference, as if fully restated, the admissions, denials and
12 responses in paragraphs 1.1 through 5.12 above.

13 9.2 Paragraph 9.2 sets forth allegations only against other defendants, and therefore does
14 not require a response from Seattle. To the extent a response is required, Seattle denies the
15 allegations in paragraph 9.2.

16 9.3 Paragraph 9.3 sets forth allegations only against other defendants, and therefore does
17 not require a response from Seattle. To the extent a response is required, Seattle denies the
18 allegations in paragraph 9.3.

19 9.4 Paragraph 9.4 sets forth allegations only against other defendants, and therefore does
20 not require a response from Seattle. To the extent a response is required, Seattle denies the
21 allegations in paragraph 9.4.

22 9.5 Paragraph 9.5 sets forth allegations only against other defendants, and therefore does
23 not require a response from Seattle. To the extent a response is required, Seattle denies the

1 allegations in paragraph 9.5.

2 **AFFIRMATIVE DEFENSES**

3 By way of affirmative defenses, Seattle alleges as follows:

4 1. Plaintiffs have failed to state a claim upon which relief can be granted.

5 2. Plaintiffs' claims are barred, in whole or in part, by the doctrines of payment,
6 mootness, estoppel, waiver, and laches.

7 3. Plaintiffs' claims are barred by the doctrines of res judicata and collateral estoppel.

8 4. Plaintiffs have failed to present a claim for damages to the City of Seattle, as
9 required by RCW 4.96.010.

10 5. Plaintiffs lack standing to assert some or all of their claims.

11 6. Plaintiffs have failed to comply with RCW 7.24.110.

12 7. Plaintiffs' claims are barred by the exclusive remedy set forth in IRLJ 6.7.

13 8. Plaintiffs' claims are barred by their failure to exhaust their remedies in the
14 infraction proceedings.

15 9. Plaintiffs' claims have failed to join indispensable parties, namely the municipal
16 courts that have exclusive original jurisdiction over these matters.

17 10. Plaintiffs' claims do not present common questions of law and fact as to all
18 defendants to warrant class certification.

19 11. Seattle reserves the right to add additional affirmative defenses as this case proceeds.

20 **PRAYER FOR RELIEF**

21 Wherefore, defendant City of Seattle prays for the following relief:

22 A. That all claims asserted against it be dismissed with prejudice;

23 B. That the Court deny plaintiffs' request for class certification;

1 C. That plaintiffs be required to pay Seattle's attorney's fees and costs incurred herein;
2 and

3 D. For such other relief as is just and equitable.

4 DATED this 8th day of September, 2009.

5 THOMAS A. CARR
6 Seattle City Attorney

7
8 s/Gregory C. Narver, WSBA #18127
9 s/Phillip E. Brenneman, WSBA # 9219
10 Assistant City Attorneys
11 Seattle City Attorney's Office
12 600 Fourth Avenue, Fourth Floor
13 P.O. Box 94769
14 Seattle, WA 98124-4769
15 Telephone: (206) 684-8200
16 Fax: (206) 684-8284
17 Gregory.Narver@seattle.gov
18 Phil.Brenneman@seattle.gov

19
20 Attorneys for Defendant City of Seattle
21
22
23